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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	
)	
CHEMICAL WASTE MANAGEMENT, INC;)	CIVIL ACTION NO.
EARTHLINE COMPANY; FILCREST REALTY,)	
INC.; ANTHONY GAESS; INMAR)	
ASSOCIATES, INC.; KIN-BUC, INC.;)	
SCA SERVICES, INC.; SCA SERVICES)	
OF PASSAIC, INC.; TRANSTECH)	
INDUSTRIES, INC.; WASTE MANAGEMENT,)	
INC.; WASTE MANAGEMENT HOLDINGS,)	
INC.; and WASTEQUID, INC.)	
)	
Defendants.)	

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the United States Environmental Protection Agency ("EPA"), files this Complaint and alleges as follows:

STATEMENT OF THE CASE

1. This is a civil action for recovery of response costs and civil penalties pursuant to Sections 106(b) and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9606(b), 9607(a), and 9607(f)(1). The United States seeks (1) recovery from the above-named defendants ("Defendants") of costs incurred and to be incurred by the United States in response to releases or threatened releases of hazardous substances at or from the Kin-Buc Landfill Site, located at 383 Meadow Road, Edison Township, Middlesex County, New Jersey ("Site"), and (2) civil penalties, under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), for violations of an EPA Unilateral Administrative Order ("UAO").

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to Sections 106(a), 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a) and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

1. Venue is proper in this judicial district pursuant to Sections 106(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(a) and 9613(b), and 28 U.S.C. § 1391(b) and (c), because the claims arose, and the releases or threatened releases of hazardous substances occurred, in this district.

DEFENDANTS

1. Defendant Kin-Buc, Inc. ("Kin-Buc") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at 200 Centennial Avenue, Piscataway, NJ 08854. At times material hereto, Kin-Buc has done business in this judicial district.

1. Defendant Filcrest Realty, Inc. ("Filcrest") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at 1703 East Second Street, Scotch Plains, New Jersey 07076. At times material hereto, Filcrest has done business in this judicial district.

1. Defendant Inmar Associates, Inc. ("Inmar") (f/k/a Inmar Realty, Inc.) is a corporation organized and existing under the

laws of the State of New Jersey, with its principal place of business at 1703 East Second Street, Scotch Plains, New Jersey 07076. At times material hereto, Inmar has done business in this judicial district.

1. Defendant Transtech Industries, Inc. ("Transtech") (f/k/a Scientific, Inc. ("Scientific")) is a corporation organized and existing under the laws of the State of Delaware, with its principle place of business at 200 Centennial Avenue, Piscataway, New Jersey 08854. At times material hereto, Transtech has done business in this judicial district.

1. Defendant Earthline Company ("Earthline") (f/k/a Environmental Services Company ("Environmental Services"), f/k/a or d/b/a Gaess Environmental Services Company ("Gaess Environmental")) is a partnership organized and existing under the laws of the State of New Jersey, with its principal place of business at 3003 Butterfield Road, Hinsdale, Illinois 60521. At times material hereto, Earthline has done business in this judicial district.

1. Defendant Wastequid, Inc. ("Wastequid") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at 3001 Butterfield Road, Oak Brook, Illinois 60521. At times material hereto, Wastequid has done business in this judicial district.

1. Defendant SCA Services of Passaic, Inc. ("SCA Passaic") (f/k/a SCA Services of Edison, Inc. ("SCA Edison")) is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at 3003 Butterfield Road, Hinsdale, Illinois 60521. At times material hereto, SCA Passaic has done business in this judicial district.

1. Defendant SCA Services, Inc. ("SCA Services") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 3003 Butterfield Road, Hinsdale, Illinois 60521. At times material hereto, SCA Services has done business in this judicial district.

1. Defendant Waste Management Holdings, Inc. ("WMHI") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 3003 Butterfield Road, Oak Brook, Illinois 60521. At times material hereto, WMHI has done business in this judicial district.

1. Defendant Waste Management, Inc. ("WMI") (a/k/a WMX Technologies, Inc. ("WMX")) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 1001 Fannin Street, Houston, Texas 77002. At times material hereto, WMI has done business in this judicial district.

1. Defendant Chemical Waste Management, Inc. ("CWM") is a corporation organized and existing under the laws of the State of

Delaware, with its principal place of business at 3001 Butterfield Road, Oak Brook, Illinois 60521. At times material hereto, WMI has done business in this judicial district.

1. Defendant Anthony Gaess ("Gaess") is an individual residing at 294 Red School House Road, Montvale, New Jersey 07645. At times material hereto, Gaess has done business in this judicial district.

GENERAL ALLEGATIONS

Site Description and Background

1. The Site encompasses approximately 200 acres located at 383 Meadow Road, Edison Township, Middlesex County, New Jersey. The Site includes several inactive waste disposal areas and is located within an industrial and commercial area zoned for light industry. The Site is bordered on the west by the Raritan River, on the east by wetlands and the inactive ILR Landfill, on the south by the Edison Landfill, and on the north by the Edison Salvage Yard and a chemical manufacturing plant. Several residences are located approximately one-half mile northeast of the Site.

1. The Site includes three landfill mounds: (1) "Kin-Buc I," which covers approximately 30 acres and rises to a maximum height of about 93 feet; (2) "Kin-Buc II," which covers approximately 12 acres and rises to a maximum height of about 51 feet; and (3) "Mound B," which covers approximately 9 acres and

risers to a maximum height of about 20 feet. The Site also includes, inter alia, a 14-acre "Low-Lying Area," a 50-acre area of tidal wetlands, and a tidal pool known as "Pool C."

1. From 1947 to 1977, several corporate and individual entities operated the Site as a landfill for liquid and solid municipal, industrial, and hazardous waste. From 1966 until 1976, Kin-Buc (among others) operated the Site as a commercial hazardous and non-hazardous chemical waste disposal landfill, known as the "Kin-Buc Landfill," which accepted liquids disposed of from tanker trucks, drummed liquid waste, solid waste, and municipal and industrial trash. Upon information and belief, the landfill continued to accept solid waste until 1977.

1. From 1973 to 1976, approximately seventy (70) million gallons of liquid waste and one (1) million tons of solid waste were disposed of at the Site.

1. Throughout the period from 1966 to 1977, hazardous substances, within the meaning of Sections 101(14) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9607(1) ("Hazardous Substances"), were disposed of at the Site.

1. EPA-ordered remedial investigations found that Hazardous Substances were and are being released into the environment at and from the Site, including but not limited to polychlorinated biphenyls ("PCBs"), metals, volatile organic

compounds ("VOCs"), pesticides, cyanide, cadmium and polyaromatic hydrocarbons.

Relationship of Defendants to the Site

1. In 1965, Scientific was incorporated. Scientific, Inc. operated the Site from 1966 through 1977. In June 1986, by charter amendment, Scientific changed its name to Transtech.

1. Transtech held itself out to customers and the public as an operator of the former Kin-Buc Landfill at the Site. Transtech operated the Site at the time of disposal of Hazardous Substances there.

1. Transtech transported Hazardous Substances for disposal at the Site.

1. In 1965, Inmar was incorporated and M. Mahan and Meagher became Inmar's principal officers.

1. In or about 1966, Inmar acquired a portion of the Site. Inmar owned a portion of the Site from that date until at least December 1976. During the period of Inmar's ownership, Hazardous Substances were disposed of at the Site.

1. Filcrest was incorporated in 1967. From 1967 to June 1986, Filcrest was a wholly-owned subsidiary of Scientific. In June 1986, by charter amendment, Scientific changed its name to Transtech. From June 1986 to the present, Filcrest has been a wholly-owned subsidiary of Transtech.

1. In 1969, Filcrest acquired a portion of the Site. Upon information and belief, Filcrest continued to own a portion of the Site until at least 1977. During the period of Filcrest's ownership, Hazardous Substances were disposed of at the Site.

1. Kin-Buc was incorporated in 1966 for the purpose of acquiring and operating the former Kin-Buc Landfill at the Site. From 1966 to June 1986, Kin-Buc was a wholly-owned subsidiary of Scientific. From June 1986 (when Scientific changed its name to Transtech) to the present, Kin-Buc has been a wholly-owned subsidiary of Transtech.

1. From 1966 until 1976, Kin-Buc operated the Site as a commercial hazardous and non-hazardous chemical waste disposal landfill, which accepted liquids disposed of from tanker trucks, drummed liquid waste, solid waste, and municipal and industrial trash.

1. Kin-Buc filed registration and operational statements with the New Jersey Department of Environmental Protection ("NJDEP") for the waste disposal facility at the Site, including such statements for the reporting years 1973, 1974, 1975, and 1976.

1. Upon information and belief, Kin-Buc operated the Site at the time of the disposal of the Hazardous Substances thereat.

1. Wastequid was a wholly-owned subsidiary of Scientific at least September 1975 to June 1986. Upon information and belief, Transtech sold Wastequid to SCA Services, Inc. in 1986.

1. SCA Passaic (f/k/a SCA Edison) was a wholly-owned subsidiary of SCA Services prior to September 1975 and continuing to the present.

1. On September 2, 1975, Wastequid and SCA Passaic (then known as SCA Edison), and their parent corporations SCA Services and Scientific, entered into a written agreement (the "Partnership Agreement") forming a partnership (then known as Environmental Services) which came to be known as Earthline. As general partners of Earthline, Wastequid and SCA Passaic each transported Hazardous Substances to the Site at the time of disposal of Hazardous Substances thereat.

1. From September 1975 to July 1976, Earthline transported wastes, including Hazardous Substances, to the Site for disposal thereat. Earthline, and Wastequid and SCA Passaic as general partners, upon information and belief, operated the Site at the time of disposal of Hazardous Substances thereat.

1. WMI was incorporated in 1971.

1. CWM was incorporated in 1978 as a subsidiary of WMI (then known as WMX).

1. In 1984, WMI acquired a controlling share (60%) of SCA Services.

1. As of 1988, CWM had acquired Earthline, Wastequid, and SCA Passaic.

1. Upon information and belief, after a reasonable opportunity for further investigation and discovery, the evidence will show that CWM succeeded to the liabilities of SCA Services for the Site.

1. In 1998, WMI was merged into USA Waste Services, Inc. ("USA Waste"). At the time of the merger, the "old" WMI changed its name to WMHI, and USA Waste changed its name to WMI (or the "new" WMI).

1. By virtue of 1998 merger, WMHI acquired the "old" WMI's subsidiaries, including CWM and SCA Services, and WMHI became a wholly-owned subsidiary of the "new" WMI.

1. Upon information and belief, after a reasonable opportunity for further investigation and discovery, the evidence will show that both WMHI and WMI have each succeeded to the liabilities of SCA Services for the Site and have each assumed by agreement or merger all or a portion of the Site-related obligations and liabilities of Transtech, Filcrest, Kin-Buc, Inmar, and Gaess, including without limitation their obligations and liabilities, pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, for the response costs incurred by the United States in connection with the Site.

1. From September 1975 to July 1976, Gaess was the Chief Executive Officer ("CEO") and/or the principal operating officer of Earthline (f/k/a Environmental Services, f/k/a Gaess Environmental Services), as well as an employee of SCA Services. From September 1975 to July 1976, Gaess managed and controlled waste disposal operations at the Site during the time of disposal of Hazardous Substances thereat.

1. In a prior action, the District Court for the District of New Jersey found that Kin-Buc, Inmar, Filcrest, and Scientific were owner/operators at the Site, and that Earthline and Wastequid were transporters to the Site within the meaning of CERCLA Sections 107(a)(2) and 107(a)(4). See Earthline Co. v. Kin-Buc, Inc., et al., Civ. No. 83-4226 (D.N.J. April 13, 1984).

Site Cleanup and Enforcement Activities

1. EPA first became involved with the Site in 1976, when hazardous substances were discovered during an investigation of an oil spill there. In 1979, the United States on behalf of EPA brought a civil action against Kin-Buc, Scientific, SCA Services, Wastequid, SCA Passaic, Earthline, Filcrest, Inmar, M. Mahan, Meagher, and Gaess, under the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq., the Clean Water Act, 33 U.S.C. §§ 1251, et seq., and the Rivers and Harbors Appropriations Act of 1899, 33 U.S.C. § 401, et seq.

1. In a 1980 settlement between the United States and Kin-Buc related to the 1979 action, Kin-Buc agreed to install a landfill cap on Kin-Buc I and initiate long-term monitoring. However, Kin-Buc did not agree to remediate the Site or to control further migration of contaminants. In 1980, EPA commenced its own cleanup activities under the Clean Water Act.

1. In 1981, EPA placed the Site on the National Priorities List ("NPL"), a list of the most seriously contaminated hazardous waste sites in the country, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, Appendix B.

1. EPA issued a series of four unilateral administrative Orders (UAO), under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a):

(a) The first UAO (EPA Docket No. II-CERCLA-30102), issued on September 23, 1983 ("1983 UAO") named the following entities as Respondents: Gaess; M. Mahan; Meagher; Earthline; Filcrest; Inmar; Kin-Buc; SCA Services; SCA Passaic; Scientific; and Wastequid. The 1983 UAO required Respondents to perform a removal program, a remedial investigation and feasibility study ("RI/FS"), a remedial action, operation and maintenance ("O&M"), and long-term monitoring.

(b) The second UAO (EPA Docket No. II-CERCLA-60105), issued on March 25, 1986 ("1986 UAO") named the following entities as Respondents: Gaess; M. Mahan; Meagher; Earthline;

CWM; Filcrest; Inmar; Kin-Buc; SCA Services; SCA Passaic; Scientific; and Wastequid. The 1986 UAO amended Paragraph 33 of the 1983 UAO, regarding performance of a Feasibility Study at the Site.

(c) The third UAO, issued on September 21, 1990 (EPA Index No. II-CERCLA-00114) ("1990 UAO") named the following entities as Respondents: Gaess; M. Mahan; Meagher; Earthline; CWM; Filcrest; Inmar; Kin-Buc; SCA Services; SCA Passaic; Transtech (f/k/a Scientific); and Wastequid. The 1990 UAO amended the 1986 UAO and the 1983 UAO. The 1990 UAO, inter alia, required Respondents to undertake a remedial design and remedial action ("RD/RA") for OU I and an RI/FS for OU II.

(d) The fourth UAO, issued on November 19, 1992 (EPA Index No. II-CERCLA-93-0101) ("1992 UAO") named the following entities as Respondents: Gaess; M. Mahan; Meagher; Earthline; CWM; Filcrest; Inmar; Kin-Buc; SCA Services; SCA Passaic; Transtech; and Wastequid. The 1992 UAO required a remedial design, remedial construction, wetlands restoration, O&M, and long-term monitoring for OU II.

1. On August 1, 1988, the United States District Court for the District of New Jersey entered a consent decree with approximately 200 parties, which had "arranged" for the disposal of Hazardous Substances at the Site, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), in United

States v. Absolute Fire Protection Co., Inc., et al, Civ. No. 88-2087 (D.N.J.). Under the consent decree, the United States recovered approximately \$5 million, response costs incurred at the Site to that date. This action seeks response costs incurred by the United States, but not recovered either under the 1988 Consent Decree or otherwise.

1. In September 1988, EPA issued a Record of Decision ("ROD") which divided the Site remediation into two "operable units" ("OUs"). The first OU ("OU I") consisted of the Kin-Buc I and II mounds, portions of the Low-Lying Area, and Pool C. The second OU ("OU II") consisted of areas impacted by contamination migrating from the OU I areas, including Mound B, other portions of the Low-Lying Area, Edmonds Creek, Mill Brook, Martins Creek, and the wetlands associated with Edmonds Creek.

1. The September 1988 ROD ("OU I ROD") also selected a remedy for OU I, addressing source control measures. That remedy included: (1) maintenance and upgrading of the Kin-Buc I landfill cap, and installation of a cap over Kin-Buc II, Pool C, and portions of the Low-Lying Area; (2) installation of a slurry wall surrounding the source area; (3) collection and off-site incineration of oily phase leachate; (4) collection and on-site treatment of aqueous phase leachate and groundwater from within the slurry wall area, and discharge of treated water to the

Raritan River; (5) a landfill gas extraction and flare system; (6) O&M; and (7) periodic monitoring.

1. In September 1992, EPA issued a ROD which selected a remedy for OU II addressing impacts from contaminant migration at or from the Site ("OU II ROD"). That remedy included: (1) excavation of PCB-contaminated sediments; (2) consolidation of the excavated sediments within the OU I containment system; (3) restoration of wetlands areas affected by the excavation; and (4) long-term monitoring of ground and surface water to ensure the effectiveness of the remedy.

1. Respondents to the 1990 UAO repeatedly failed to comply in a timely fashion with the UAO's requirements. The Respondents were out of compliance with the 1990 UAO each and every day from the scheduled completion date to the actual completion date for at least 12 different response activities, as set forth on the following chart:

<u>Remedial Activities</u>	<u>Scheduled Completion</u>	<u>Actual Completion</u>
Install Watermain	Nov. 6, 1993	Sept. 19, 1994
Pool C Remediation	Oct. 19, 1993	Aug. 30, 1994
Install Liner, South Slope	Nov. 24, 1993	Aug. 24, 1994
Install Geocomposite, South Slope	Nov. 24, 1993	Aug. 25, 1994
Rough Grade for Cap - South Slope	Nov. 15, 1993	Aug. 23, 1994
Cap Cover Soils, South Slope	Nov. 30, 1993	Aug. 26, 1994
Topsoil, South Slope	Dec. 2, 1993	Sept. 17, 1994
Landfill Cover Soils	Dec. 13, 1993	March 22, 1995
Landscape, South Slope	Dec. 7, 1993	Oct. 6, 1994
Treatment Plant Piles	March 25, 1994	Sept. 8, 1994
Rough Grade for Cap - Remaining Areas	March 7, 1994	March 22, 1995
Gas Collection - Phase I	March 24, 1994	Jan. 12, 1995

SPECIFIC ALLEGATIONS

1. The Site is a location where hazardous substances have been deposited, stored, disposed of, placed or otherwise come to be located, and thus is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

1. There have been "releases" or "threatened releases" of "hazardous substances," within the meaning of Sections 101(14), 101(22) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(22), 9607(a), into the environment at and from the Site.

1. Each Defendant in this action is a "person," within the meaning of Sections 101(21) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(21), 9607(a).

1. Kin-Buc is a current "owner" of the Site under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1), and as an owner of the Site "at the time of disposal," of Hazardous Substances under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

1. Filcrest and Inmar each is an owner of the Site at the time of disposal of Hazardous Substances, under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

1. Transtech is an "operator" of the Site at the time of disposal of Hazardous Substances, under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), and as a "transporter" of Hazardous Substances to the Site, under Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4).

1. Earthline, its general partners Wastequid and SCA Passaic, and SCA Services each is a transporter of Hazardous Substances to the Site, under Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4), and upon information and belief, after a reasonable opportunity for further investigation and discovery, the evidence will show that each is also an "operator" of the Site at the time of disposal of Hazardous Substances, under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

1. Upon information and belief, after a reasonable opportunity for further investigation and discovery, the evidence will show that WMI, WMHI, and CWM each is, or has assumed the obligations and liabilities of, an "owner or operator" of the Site at the time of disposal of Hazardous Substances, under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), and as a "transporter" of Hazardous Substances to the Site, under Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4).

1. Gaess is an operator of the Site at the time of disposal of Hazardous Substances, under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

1. The United States, as of July 1999, has incurred at least \$3 million in unreimbursed "response" costs, within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), excluding interest, related to the release or threatened release at the Site of Hazardous Substances, and the United States has and will continue to incur such costs.

1. The response costs related to the Site which were incurred by the United States are not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a) and 40 C.F.R. Part 300.

FIRST CLAIM FOR RELIEF
(Recovery of Response Costs)

1. The United States realleges and incorporates Paragraphs 1 through 66 as if fully set forth herein.

1. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this Section-

. . .

(1) the owner and operator of a vessel or facility,

(2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,

. . .

(4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for--

(A) all costs of removal or remedial action incurred by the United States Government . . . not inconsistent with the national contingency plan;

The amounts recoverable in an action under this section shall include interest on the amounts recoverable under subparagraphs (A) through (D)
. . . .

1. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), all herein-named Defendants are jointly and severally

liable to the United States for response costs incurred by the United States with respect to the Site.

1. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States is entitled to a declaratory judgment that all herein-named Defendants are jointly and severally liable to the United States, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for future response costs to be incurred by the United States with respect to the Site not inconsistent with the NCP.

SECOND CLAIM FOR RELIEF
(Assessment of Penalties)

1. The United States realleges and incorporates Paragraphs 1 through 70 as if fully set forth herein.

1. Section 106 of CERCLA, 42 U.S.C. § 9606(a), provides:

(a) . . .

In addition to any other action taken by a State or local government, when the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may . . . take other action under this section including, but not limited to, issuing such orders as may be necessary to protect public health and the environment.

(b) . . .

(1) Any person who, without sufficient cause, willfully violates, or fails or refuses to comply with, any order of the President under subsection (a) of this section may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than \$25,000 for each day in which such violation occurs or such failure to comply continues.

1. Pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), each herein-named Defendant, except WMI and WMHI, is liable to the United States for penalties for failure to comply with EPA's 1990 UAO, in an amount up to \$25,000 for violations for each day prior to January 30, 1997, and an amount up to \$27,500 for violations for each day occurring on or after January 30, 1997 for failure to comply with a requirement of the UAO. See the Debt Collection Improvement Act of 1986, 31 U.S.C. § 3717, et seq., and EPA's Civil Monetary Penalty Inflation Adjustment Rule of December 31, 1996 (civil penalty limit has been raised to \$27,500).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff United States of America prays that this Court:

A. Enter judgment in favor of the United States, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), holding all herein-named Defendants jointly and severally liable for unrecovered costs incurred by the United States with respect to the Site, plus interest thereon;

B. Enter a declaratory judgment, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that all herein-named Defendants are jointly and severally liable to the United States for future response costs to be incurred by the United

States with respect to the Site not inconsistent with the NCP,
plus interest thereon;

C. Enter judgment, pursuant to Section 106(b) of CERCLA,
42 U.S.C. § 9606(b), that each herein-named Defendant, except WMI
and WMHI, is liable to the United States for penalties for
failure to comply with EPA's 1990 UAO, in an amount up to \$25,000
for violations for each day prior to January 30, 1997, and an
amount up to \$27,500 for violations for each day occurring on or
after January 30, 1997 that the Defendant failed to comply with a
requirement of the UAO;

D. Award the United States its costs of this action; and

E. Grant the United States such other and further relief
as the Court deems just and proper.

Respectfully submitted,

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